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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,125	04/14/2004	Martin Roche	R90318	6442
27321	7590	10/11/2006	EXAMINER	
ALVIN S. BLUM 2350 DELMAR PLACE FORT LAUDERDALE, FL 33301			BRANDT, ADAM CURTIS	
			ART UNIT	PAPER NUMBER

3771

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/824,125

Applicant(s)

ROCHE ET AL.

Examiner

Adam Brandt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7 and 10 is/are rejected.
- 7) ☒ Claim(s) 5, 8, 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. **Claims 1, 4, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray(USPN 2,206,234) in view of Champel(FR 2,594,344 A1).**

2. In regards to claim 1: Murray discloses a walking support for a leg. The support comprises a subfloor portion (all components located below 3); a pair of elongate tubular members (2b, 2c) affixed to, and extending upwards from, the subfloor portion; the foot support platform (3) slidably mounted on the exterior of the tubular members (2b,2c) for free vertical translatable motion thereon; a spring element (4) freely movable within each tubular member; and a pair of elongate elements (5,6), each element having a first end provided with means for mounting on a leg below the knee (7), and a second end constructed for being slidably received within the tubular member atop the spring element (received in area of 6b). While Murray discloses a foot support, Murray fails to disclose a boot portion attached to the foot support. Champel teaches that a boot can be attached to a foot supporting platform (figure 1). Such an alternation to Murray's walking support can be reasonably be ascertained because the arch support (3a) is not permanently mounted to the foot support (col. 2, ln 24-40). The versatility of altering the attachment to the foot support illustrates that another article (such as the boot of Champel) can be substituted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the walking support of Murray and Champel's boot portion to provide solid support and security to the ankle and foot of a patient recovering from a injury to that portion of their body.

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3. In view of the obviousness of attaching a boot portion to the foot supporting platform, Champel's boot portion is slidably mounted (on the foot support 3) on the exterior of the tubular members of Murray for free vertical translatory motion thereon;

4. In regards to claim 4: Murray and Champel combine to disclose the walking support of claim 1, Murray further teaches that it is well known in the art to use coil springs in a compression device (figure 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a coil spring in the walking support of Murray and Champel in order to provide a linear compression of the device when force is applied and the ability to replace the spring with a stiffer spring as part of patients therapy program.

5. In regards to claim 6: Murray and Champel combine to disclose the walking support of claim 1, Murray further discloses a resilient structure (1) interposed between the boot portion and the subfloor portion.

6. **Claims 2, 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Champel and Barefoot et al. (USPN 6,581,919; "Barefoot").**

7. In regards to claims 2 and 3: Murray and Champel combine to disclose the walking support of claim 1, but fail to disclose that the spring elements are gas or elastomeric springs. Barefoot teaches that elastomeric springs, and gas springs are equivalent selections to coil springs when being applied as shock absorbers (column 1, lines 34 to 35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

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combine the walking support of Murray and Champel with the gas or elastomeric springs as taught by Barefoot in order to achieve the appropriate stiffness in the shock absorber or in order to utilize a more cost effective technology in shock absorbers.

8. Claims 7, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murray in view of Champel and Barefoot and Rowan(USPN 5,514,054).

9. In regards to claim 1: Murray discloses a walking support for a leg. The support comprises a subfloor portion (all components located below 3); a pair of elongate tubular members (2b, 2c) affixed to, and extending upwards from, the subfloor portion; the foot support platform slidably mounted on the exterior of the tubular members for free vertical translatory motion thereon (3); a spring element (4) freely movable within each tubular member; and a pair of elongate elements (5,6), each element having a first end provided with means for mounting on a leg below the knee (7), and a second end constructed for being slidably received within the tubular member atop the spring element (received in area of 6b). While Murray discloses a foot support, Murray fails to disclose a boot portion attached to the foot support. Champel teaches that a boot can be attached to a foot supporting platform (figure 1). Such an alternation to Murray's walking support can be reasonably be ascertained because the arch support (3a) is not permanently mounted to the foot support (col. 2, ln 24-40). The versatility of altering the attachment to the foot support illustrates that another article (such as the boot of Champel) can be substituted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the walking support of Murray and Champel's boot portion to

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provide solid support and security to the ankle and foot of a patient recovering from a injury to that portion of their body.

10. In view of the obviousness of attaching a boot portion to the foot supporting platform, Champel's boot portion is slidably mounted (on the foot support 3) on the exterior of the tubular members of Murray for free vertical translatory motion thereon;

11. Additionally, Murray discloses a coil spring (4) element freely movable within each tubular member, but fails to disclose a gas spring element. Barefoot teaches that a gas spring is an equivalent alternative to a coil spring when being applied as shock absorbers (column 1, lines 34 to 35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the walking support of Murray and Champel with the gas spring as taught by Barefoot in order to achieve the appropriate stiffness in the shock absorber or in order to a utilize a more cost effective technology in shock absorbers.

12. Additionally, Murray discloses a subfloor portion having a resilient bottom surface (1), but fails to mention that it is arcuate in shape. Rowan teaches that it is well known in the art devices that attach to the leg for the means of assisting walking to have a structure of arcuate shape attached to the bottom of the walking device (column 5, lines 11 to 15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the walking support of Murray, Champel, and Barefoot, with the arcuate subfloor portion as taught by Rowan in order to promote a more comfortable, stable, life-like-feel walking apparatus.

13. In regards to claim 10: Murray ,Champel, Barefoot, and Rowan combine to disclose the walking support of claim 7, Murray further discloses a resilient structure (1) interposed between the boot portion and the subfloor portion.

Response to Arguments

1. Applicant's arguments filed 9/11/2006 have been fully considered but they are not persuasive. This action cannot be made final because of the alterations to claim rejections made by the Examiner.
2. The Applicant argues that proposed combination of references does not succeed at reducing the forces applied to the foot during the course of walking. The Examiner agrees with the Applicant that the foot and the leg are always a fixed distance apart, but the Examiner fails to see how this impinges upon the reduction of force. The only body creating force in the system is negative acceleration of the foot towards the ground. Upon impaction, the spring (4, Murray) is compressed. Even minimal compression of a spring obviously requires some magnitude of force. Obviously, work is being done to compress the spring. Therefore, less force has been transferred directly to the foot.
3. The Applicant argues that the “a pair of elongate tubular elements affixed to, and extending upwards from, the subfloor portion” are not present in the Murray. Since the Applicant’s terminology is similar in phraseology, the Examiner wishes to clarify his interpretation so that the record is clear. The Applicant uses several similar phrases in claim 1. Part C introduces “a pair of **elongate tubular members**”, Part D introduces “**tubular member**”

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(note that the word elongate is no longer used), Part F introduces “a pair of **elongate elements**”, Part F further introduces “**each element**” (note that the word elongate is no longer used). In summary, the Examiner believes that the Applicant’s invention includes “elongate tubular members” and “elongate elements”.

4. The Applicant does not claim “a pair of *elongate tubular elements* affixed to, and extending upward from, the subfloor portion” in any of the claims 1-20. The Examiner believes the Applicant is in error and may have meant to cite “a pair of elongate tubular members”. The argument is treated in the altered claim rejection.

5. The Examiner notes that claims containing the limitation “constructed so that the elongate elements may be removed from the remainder of the apparatus by unfastening the boot from the foot and lifting them from the tubular members” have not been rejected. Additionally, the words “members” and “elements” have been interchanged again. For clarity in prosecution, “elements” and “members” are different components of the invention and are not interchangeable in function.

6. The Applicant contends the Examiner’s interpretation of the “boot portion slidably mounted on the exterior of the tubular members for free vertical translatory motion thereon”.

The argument is treated in the altered claim rejection.

The Applicant’s argument pertaining to the arch support attached to the foot support has been treated in the altered claim rejection.

Allowable Subject Matter

14. Claims 11-20 allowed.

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15. Claims 5, 8, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Brandt whose telephone number is 571-272-7199. The examiner can normally be reached on 8:30 AM to 4:30 PM; Mon thru Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 571-272-4791. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ACB

Adam Brandt
Examiner
Art Unit 3743

Henry Bennett
Supervisory Patent Examiner
Group 3700

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